



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- ☒ Preproposal Statement of Inquiry was filed as WSR ; or
☒ Expedited Rule Making--Proposed notice was filed as WSR ; or
☒ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☒ Supplemental Notice to WSR
☒ Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-282-990, Sanitary Control of Shellfish - Fees

Hearing location(s):

DOH Town Center 2
111 Israel Road, room 158
Tumwater, Wa

Submit written comments to:

Name: Jan Jacobs

Address:

PO Box 47824
Olympia, WA 98504-7824
Ph: 360-236-3316

Web site: <http://www3.doh.wa.gov/policyreview/>**fax:** 360-236-2257 **by (date)** 07/05/2006**Date:** July 6, 2006 **Time:** 1:00 pm**Date of intended adoption:** 07/10/2006

(Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact

Jan Jacobs by 06/22/2006

TTY (800) 833-6388 or () 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rule restructures the commercial shellfish operations fee schedule for paralytic shellfish poison (PSP) testing of commercially harvested geoduck. PSP fees are set for the purpose of recovering 100% of the cost of PSP testing performed at the State Public Health Lab in Seattle. The restructure is revenue neutral, but will increase fees over the fiscal growth factor for some operators. The 2005 legislature authorized the department to increase fees beyond the fiscal growth factor in ESSB 6090 (chapter 518 section 221(1), laws of 2005).

Reasons supporting proposal:

The proposed fees provide the revenue necessary for DOH to conduct testing for PSP in commercial shellfish. This testing is essential to public health as it is the only means available to determine if dangerous levels of PSP exist in commercial shellfish and ensures toxic shellfish do not reach consumers.

Statutory authority for adoption:

RCW 43.70.250

Statute being implemented:

RCW 43.70.250, Chapter 518, Laws of 2006

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

05/19/06

NAME (type or print)

Mary C. Selecky

SIGNATURE**TITLE**

Secretary of Health

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STATE OF WASHINGTON
FILED

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(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization)

Washington State Department of Health

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

Name

Office Location

Phone

Drafting Jan Jacobs 111 Israel Rd. SE, Tumwater, WA 360.236.3316

Implementation Nancy Napolilli 111 Israel Rd. SE, Tumwater, WA 360.236.3325

Enforcement Nancy Napolilli 111 Israel Rd. SE, Tumwater, WA 360.236.3325

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone:

fax:

e-mail:

☒ No. Explain why no statement was prepared.

Under RCW 19.85.025(3), a small business economic impact statement is not required for rules that set or adjust fees pursuant to legislative standards. This rule proposes to revise a fee necessary to defray the costs of administering the commercial shellfish license program. The department is directed under RCW 43.70.250 to set fees so that the cost of a business license program is fully borne by members of that business. During the 2006 legislative session, the legislature authorized the department to increase fees beyond the fiscal growth factor under chapter 518, laws of 2006.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes. A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone:

fax:

e-mail:

☒ No. Please explain:

RCW 34.05.328(5)(b)(vi), "significant rule analysis" does not apply to rules that set or adjust fees pursuant to legislative standards, as this proposal does.

AMENDATORY SECTION (Amending WSR 05-17-120, filed 8/17/05, effective 9/17/05)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$250((-))
Shellstock Shipper	
0 - 49 Acres	\$282((-))
50 or greater Acres	\$452((-))
Scallop Shellstock Shipper	\$282
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$514((-))
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$622((-))
Plants with floor space > 5000 sq. ft.	\$1,147((-))

(2) The fee for each export certificate is \$10.30.

(3) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Harvester	≤ 2	\$173
Harvester	3 or more	\$259
Shellstock Shipper	≤ 2	\$195
0 - 49 acres		
Shellstock Shipper	3 or more	\$292
0 - 49 acres		
Shellstock Shipper	N/A	\$468
50 or greater acres		
Shucker-Packer	≤ 2	\$354
(plants < 2000 ft ²)		
Shucker-Packer	3 or more	\$533
(plants < 2000 ft ²)		
Shucker-Packer	≤ 2	\$429
(plants 2000 - 5000 ft ²)		
Shucker-Packer	3 or more	\$644
(plants 2000 - 5000 ft ²)		
Shucker-Packer	N/A	\$1,189
(plants > 5000 ft ²)		

(a) The number of harvest sites will be the total number of

harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Fee
Department of natural resources (quota tracts harvested by DNR contract holders)	\$((13,216)) <u>10,132</u>
Jamestown S'Klallam Tribe	\$((3,377)) <u>4,193</u>
Lower Elwah Klallam Tribe	\$((5,139)) <u>5,241</u>
((Lummi Nation	\$0)) <u>\$0))</u>
Nisqually Indian Tribe	\$((1,762)) <u>3,494</u>
Port Gamble S'Klallam Tribe	\$((11,306)) <u>6,639</u>
Puyallup Tribe of Indians	\$((4,992)) <u>5,940</u>
Skokomish Indian Tribe	\$((441)) <u>524</u>
Squaxin Island Tribe	\$((5,286)) <u>5,416</u>
Suquamish Tribe	\$((8,663)) <u>11,880</u>
Swinomish Tribe	\$((294)) <u>873</u>
Tulalip Tribe	\$((1,615)) <u>2,620</u>
Discovery Bay Shellfish	\$((1,175)) <u>1,048</u>
((Seattle Shellfish	\$734
Taylor Shellfish Company, Inc. (Shelton)	\$0
Washington Shell Fish, Inc.	\$0))

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.